

LABOUR DEPARTMENT

The 8th April, 1982

No. 9 (1)-82-Lab./3035.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman, and the management of M/s. Apco Industries, Mathura Road, Faridabad.

IN THE COURT OF SHRI HARI SINGH KAUSHIK, PRESIDING OFFICER, LABOUR COURT,
HARYANA, FARIDABAD

Reference No. 20 of 1980

between

SHRI GOPI CHAND, WORKMAN AND THE RESPONDENT MANAGEMENT OF M/S
APCO INDUSTRIES, MATHURA ROAD, FARIDABAD

Present :

Shri Mohit Kumar, for the workman.

Shri R. Gogna, for the respondent management.

AWARD

This reference No. 20 of 1980 has been referred to this Court by the Hon'ble Governor of Haryana.—*vide* his order No. ID/FD/1000, dated 9th January, 1980, under section 10 (i) (c) of the Industrial Disputes Act, 1947, existing between Shri Gopi Chand, workman and the respondent management of M/s. Apco Industries, Mathura Road, Faridabad. The terms of the reference was:—

Whether the termination of service of Shri Gopi Chand was justified and in order? If not, to what relief is he entitled?

The notices were issued to the parties on receiving this reference order. The parties appeared and filed their pleadings. The case of the workman according to the demand notice is that he joined on 1st March, 1977 as press operator at a monthly salary of Rs. 185 and terminated on 1st September, 1980 by verbal order. The workman sent the complaint to the Labour Inspector on 4th September, 1978 but before the Labour Inspector the respondent refused to take the workman back on duty. The workman was terminated from service without any reason and he was the old employee of the respondent company and he is entitled for his reinstatement with full back wages and continuity of service.

According to the written statement, the case of the respondent is that the workman intermittently had been in the employment of the factory and lastly he joined the service of the respondent on 1st May, 1978 by making regular application. His appointment was purely on temporary basis for a period of four months. As the claimant was employed for a fixed period of four months, so his services were terminated on 1st September, 1978 by issuing a letter of termination. The management has full right to terminate the services of the workman. The workman was not employed by the respondent on 1st March, 1977 continuously. He joined the services on temporary basis. The letter of termination was given to the workman which he refused to receive and it was therefore sent by UPC. The respondent had a right to terminate the claimant as he was temporary employee.

On the pleadings of the parties, one issue as per reference was drawn:—

Whether the termination of services of the workman was proper, justified and in order? If not, to what relief is he entitled?

Issue No 1 :

The representative of the respondent argued on this issue that as stated by Shri S. K. Verma, manager of the respondent company as MW-1, the workman resigned from his services on 28th March, 1978,—*vide* Ex. 1 and he took his full and final,—*vide* voucher Ex. M-2. The writing on Ex. M-2, within circle in the hand of the workman, bear the signature of the workman. The witness has further stated that he got his signature on the wages register. The photo copy is Ex. 3. He further argued that though these signatures were not admitted by the workman in the court but on the request of the representative of the respondent the Court taken the signature of the workman on Ex. W-2 which clears that the signature on these documents are of the workman and resembles the signatures on Ex. W-2 which was taken in the Court before the Presiding Officer. He further argued that the wages register on which the workman has signed is a register which is maintained in the ordinary business of the Factory, which cannot be disbelieved and which is produced in the Court, which is also denied by the workman. Merely denial of the fact does not prove it. It is very clear from the comparison of the signature and with the signature taken in the Court on Ex. M-2

that the signature are of the workman. The witness further stated that after leaving the service on 28th March, 1978 after resignation the workman again come for the service and filled a form of the respondent factory which is Ex. M-6 and which is also signed at mark "A", "B", and "C", by the workman. On the order of appointment in Ex. M-6 it is clearly mentioned that the workman was appointed on 1st May, 1978 at a salary of Rs 185 per month as press operator for four months. Before filling up these forms the workman gave an application in his own hands which was received in the office on 29th April, 1978 which is Ex. M-5 and on that application it was ordered that the workman be appointed as Press operator from 1st May, 1978 and after that the regular form was got filled up by the respondent and got signed the same at mark "A", "B" and "C". The claimant was appointed for a fix period of four months as stated in the order Ex. M-6 and after completion of the period the claimant was given the termination letter as shown in Ex. M-7 which was refused to accept by the workman, so it was sent under registered cover. The copy of which is Ex. M-8. The postal receipt is Ex. M-8/1 and the UPC receipt is Ex. M-8/2 for the same information. The claimant workman replied the same to the factory management,—vide Ex. M-8 through Ex. M-9, but he was not taken in the employment because the management did need the services of the workman. He further argued that the claimant was rightly terminated because he was appointed for a fix period and after completion of fix period he was terminated, because the work on which he was appointed was over and it is discretion of the management to employ the temporary workman for a particular job and terminate after finishing of work and there is nothing wrong in the order of termination.

The representative of the workman argued on this issue that the claimant was employed on 1st March, 1977 as Press Operator @ Rs 185 per month and there was a deduction of ESI from the wages of the claimant. The ESI Card is Ex. W-1, which shows the date of appointment of the workman. The workman did his duties efficiently without any complaint and without any break and he was stopped at the gate on 1st September, 1978 with out any termination letter and without payment of any compensation. He further argued that as stated by the workman as WW-1 he was a permanent employee from the year 1977 and terminated without any reason. He further argued that the workman has denied the suggestion of the respondent representative in his cross examination about his resignation on 28th March, 1978 as Ex. M-1 and the workman also denied the suggestion about the signature on Ex. M-2 to M-6. He further argued that if for the sake of arguments we admit the break in the service and even then the workman complete 240 days within year and he was permanent employee after a continuous service of one year. It is wrong on the part of the respondent to take the plea that the workman was employed for a fix period of four months. The workman was a permanent and old employee of the respondent and under the Industrial Disputes Act, the respondent has no authority to remove such an old employee in such a way as he was terminated without any notice or enquiry and without giving compensation under section 25-F of the Industrial Disputes Act. So the termination of the workman without any legal procedure adopted by the respondent, is illegal and without jurisdiction and the workman is entitled for his reinstatement with full back wages and continuous service.

After hearing the arguments of both the parties, and carefully going through the file, I am of the view that the workman has failed to establish that he was an old employee. The workman has come as own witness and no other co-workman came to depose in the Court to corroborate the statement of claim statement that he was an old employee and the plea taken by the respondent is wrong. The workman has admitted the signature on the wages register in the month of February, 1978 and he has denied the signature in the month of March, 1978, which clearly shows that it is due to his bad intention because he resigned in the month of March. The resignation Ex. M-1 bears the signature of the workman. The signature on the resignation resembles with the signature taken in the Court on Ex. W-2 and the signature admitted by the workman on the wages registers, for the month of February, 1978. These signature on the application on Ex. M-6 at Mark "A", "B" and "C" also resembles with the signature and the denial of the signature in this way can not prove the workman's case. In the order on Ex. M-6 the respondent has clearly mentioned that the workman was employed for a fix period of four months. When the workman signed the application in which it is mentioned that he was appointed for a fix period of four months. He should not have sign it and after the termination he raised this objection makes no difference in the eye of law. According to the documents and statement of the respondent it is clear that the workman was appointed for a fix period of 4 months and after its completion the workman was removed from service as he was not required by the respondent. So there is nothing wrong in the order of termination for removing the workman, and the order of termination is justified and in order and the workman is not entitled for any relief in these circumstances.

This be read in answer to this reference.

Dated the 16th March, 1982.

HARI SINGH KAUSHIK,
Presiding Officer,
Labour Court, Haryana, Faridabad.

Endorsement No. 676, dated 19th March, 1982

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

HARI SINGH KAUSHIK,
Presiding Officer,
Labour Court, Haryana, Faridabad.